



State of Washington  
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908  
(360) 753-1111 • FAX (360) 753-1112  
Toll Free 1-877-601-2828 • E-mail: [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov) • Website: [www.pdc.wa.gov](http://www.pdc.wa.gov)

9:30 a.m.  
August 23, 2012

MINUTES – REGULAR MEETING

Evergreen Plaza Bldg. Room 206  
711 Capitol Way South  
Olympia, Washington

COMMISSION MEMBERS PRESENT

Jennifer Joly, Chair  
Barry Sehlin, Vice Chair  
Amit Ranade, Member  
Jim Clements, Member  
Grant Degginger, Member

STAFF PRESENT

Andrea McNamara Doyle, Executive Director  
Nancy Krier, General Counsel  
Lori Anderson, Communications & Training Officer  
Kurt Young, Compliance Officer  
Tony Perkins, Lead Political Finance Specialist  
Michael Smith, Chief Information Technology  
Jana Greer, Confidential Secretary

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Jennifer Joly at 9:30 a.m. in the Evergreen Plaza Building, Room 206 Olympia, Washington.

Opening Comments

Commissioner Joly called the meeting to order.

Citizens Comments/Concerns

No comments or concerns were expressed.

Commissioner Comments/Concerns

No comments or concerns were expressed.

Minutes

**Motion 12-74**

Moved by Commissioner Sehlin, seconded by Commissioner Clements that:

**The Commission adopt the minutes of July 26, 2012.**

The motion passed unanimously.

Rules

Public records rules public hearing and possible adoption of WAC 390-13, 390-14, 390-37.

No members of the public signed in to testify.  
Nancy Krier presented the final proposed rule language and reviewed the process undertaken by the staff and the Commission since January to develop the proposed revisions to the agency's public records rules. The review process included an examination of the current laws, model rules, recent court decisions, and other agencies' proposals.

In June 2012, the Commission approved proposed rule language. A notice of a public hearing was posted, and public was invited to submit comments by August 1.

Ms. Krier referenced the summary of the proposed new and amended rules and noted that the proposed would repeal WAC 390-13-010, an optional format for request of lists of individuals.

Staff recommends adoption of the proposed new, amended, and repealed rules. Once approved and filed, the rules would become effective September 24, 2012.

Commissioner Joly asked when the new public records request form would be available online. Ms. Krier suggested that the form could launch immediately, without the fee schedule, and then could be revised to include the fee schedule.

Ms. Krier proposed that staff also create an online form that can be populated and submitted electronically. The form will also be available in Microsoft Word, PDF, and in paper form.

Commissioner Joly complimented Ms. Krier on her good work of cleaning up the rules that had fallen behind changes in the law and technology.

#### **Motion 12-75**

Moved by Commissioner Sehlin, seconded by Commissioner Ranade that:

**The Commission adopt the proposed new and amended rules within WAC chapter 390 as presented, and repeal WAC 390-13-010.**

The motion passed unanimously.

The discussion continued with a review of a draft of the PDC public records request form.

Ms. Krier noted the changes from previous discussions and stated that the charge per page amount will increase from 10¢ to 15¢ per page, which is the statutory default. Each side of a two-sided copy is considered a page.

She noted that staff are creating a frequently asked questions document (FAQ) to assist individuals with the use of the form and understanding of the rules.

#### Interpretations

Interpretation 04-02 Guidelines for Local Government Agencies in Election Campaigns

Ms. Krier summarized the past meeting's progress of the review and discussion regarding potential changes and amendments to Interpretation 04-02.

She stated that there have been a number of issues related to the use of uniforms that have resulted in an increase of staff time and enforcement cases.

Ms. Krier reviewed the proposed amendments for the Commission, which include concepts and language from a 2007 discussion paper and the "Reichert Letter."

She noted that outreach for stakeholder input was completed, and she reviewed the responses for the Commission.

The Commission discussed what constitutes an exigent circumstance.

James McMann, Executive Director of the Washington Association of County Officials, was present at the meeting, and he addressed the Commission on proposed amendments to the Interpretation regarding use of uniforms. He noted that his remarks were coordinated with the Association of Sheriffs and Police Chiefs.

He stated that the Commission has continually allowed for a mechanism for candidates to communicate the image that they are intending to without using public resources or finances.

Mr. McMann suggested technical changes to the proposed amendments.

Ms. Krier will incorporate the proposed changes to formatting and language as discussed to make the interpretation consistent.

#### **Motion 12-76**

Moved by Commissioner Sehlin, seconded by Commissioner Degginger that:

**The Commission adopt the amendments to Interpretation 04-02 as proposed.**

The motion passed unanimously.

Evolving technology and campaigns  
(continued)

- 12-XX Contributions via text message
- 95-05 Fundraising through 900 telephone numbers
- 00-02 Guidelines for internet contributions

Ms. Krier informed the Commission of updates on developments concerning wireless text message contributions.

She provided updates on various states and reviewed the Federal Election Commission's (FEC) recent advisory opinions. It appears that wireless carriers are poised to launch processing campaign contributions via text messaging now that the FEC has issued its second advisory opinion.

Ms. Krier will continue to follow the progress. She suggested that in September or October the

- 07-04 Campaign activities on the internet

Commission invite CTIA Wireless Association to a meeting to provide an update on its progress, and then determine if the Commission would like to encourage or address this in an interpretation at that time.

At the June commission meeting, the Commission gave preliminary input and asked that staff prepare proposed draft amendments to Interpretation 07-04 for final review and possible approval.

Ms. Krier reviewed the current interpretation proposed draft amendments.

Ms. Krier will incorporate the changes discussed and will bring examples from other States back to the Commission for review at a future meeting.

She also introduced a new reference chart showing question and answer (Q&A) on paid political advertising on the internet.

#### 2011-2013 Strategic Plan Update

Possible revisions to goals and performance measures for FY 13

In follow up to the discussion from the July Commission retreat, Andrea McNamara Doyle presented proposed revisions to the agency's 2011-13 Strategic Plan for consideration by the Commission. These changes incorporate the discussion and outcomes from the July Commission retreat.

Staff recommends adoption of the proposed amendments.

#### **Motion 12-77**

Moved by Commissioner Sehlin, seconded by Commissioner Ranade that:

**The Commission adopt the proposed amendments to the 2011-13 Strategic Plan as presented.**

The motion passed unanimously.

#### Mini-Reporting

As a part of the initial strategic planning discussion in July, the Commission asked staff to provide information regarding mini reporting rules and procedures.

Tony Perkins presented and discussed the background and history of the mini reporting option.

The Commission asked that mini reporting be added to the list of possible rule making for consideration in the future.

### Audit Planning

At the July Commission retreat, the Commission discussed the issue of the relative priority of audits with the current staff level. The Commission asked staff to provide more information for its review.

Ms. Doyle provided background and types of audits performed by staff.

She presented a chart with a suggested approach to the agency's audit planning for the next two years.

Ms. Doyle will incorporate items from the discussion and bring back to the Commission a more detailed proposal at a future meeting.

### Possible Agency Request Legislation

Ms. Doyle presented an outline of the topics selected at the July Commission retreat for further consideration of possible agency request legislation.

She presented draft language for each item with one exception, citizen action suit process.

Ms. Doyle suggested limiting agency request legislation to two bills at this time, ballot measure sponsor identification - aggregating value of ads, and a combined measure that would address several of the remaining items focused around modifying the timeframes that are applicable to certain PDC requirements.

Ms. Doyle noted that the Governor's process for reviewing proposed agency request legislation requires that it be submitted in September, before the next scheduled Commission meeting. She suggests that staff further seek stakeholder input at this time and submit the proposals previously approved by the Commission.

A summary of the comments and input will be provided to the Commission at the September meeting.

### Reporting Modifications – New

1. *Grant Degginger*, PDC Commissioner.

Commissioner Degginger recused himself.

Kurt Young presented Commissioner Degginger's request for a new reporting modification.

Commissioner Degginger was present.

Mr. Young stated that Commissioner Degginger is requesting a reporting modification that would

exempt him from listing the business customers that made payments of \$10,000 or more to the law firm of Lane Powell, PC, of which he is a member, during the previous 12 months.

Mr. Degginger had been previously granted a reporting modification prior to his term ending when he was a Bellevue City Council member.

Staff recommended approval of the request as presented.

**Motion 12-78**

Moved by Commissioner Clements, seconded by Commissioner Ranade that:

**The Commission grant the partial reporting modification as requested, finding that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.**

The motion passed unanimously.

2. *Steven T. O'Ban*, a candidate for State Representative in the 28<sup>th</sup> Legislative District in 2012.

Kurt Young presented Mr. O'Ban's request for a new reporting modification.

Mr. Young stated that Mr. O'Ban is requesting a new reporting modification that would exempt him from reporting the business customers that made payments of \$10,000 or more to the law firm of Ellis, Li & McKinstry, PLLC, of which he is a member, during the previous 12 months.

Staff recommended approval of the reporting modification for the previous twelve months.

**Motion 12-79**

Moved by Commissioner Sehlin, seconded by Commissioner Ranade that:

**The Commission grant the partial reporting modification as requested, finding that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.**

The motion passed unanimously.

IT Portfolio Update

Michael Smith provided an overview and PowerPoint presentation of the agency IT Portfolio, which is annually submitted to the Office of the Chief Information Officer.

Mr. Smith also highlighted the agency's IT cost and spending of the past 10 years.

Executive Session/Working Lunch

The Commission went into executive session at 12:40 p.m. to discuss pending and potential litigation with legal counsel.

The Commission returned to public session at 1:27 p.m.

Compliance Case Tracking System

Mr. Smith provided a demonstration of the redesigned compliance case tracking system. This system is accessible to the public online.

Penalty Authority Discussion

Ms. Krier presented a reference chart that shows a side-by-side view of the change in the Commission's penalty authority effective January 1, 2012.

She noted that for the next several years, due to the statute of limitations, the Commission will at times need to reference RCW 42.17 as well as RCW 42.17A, depending on when the alleged violations occurred.

The penalty authority discussion will continue at the September Commission meeting. Ms. Krier and Sr. Assistant Attorney General Linda Dalton will bring case history back to the Commission for review at that time.

Staff Reports

Executive Director

Ms. Doyle advised the Commission on the agency plan to prepare and submit a supplemental decision package seeking to restore \$17,000 to the agency maintenance level budget.

Ms. Doyle provided information about the 2012 Council On Governmental Ethics Laws (COGEL) annual conference. The conference is December 2-5. She noted that there is funding available for one or two to attend at this time. She asked Commissioners to determine if any of the Commission will be attending.

Chief Information Technology Officer

In addition to his written activity report, Mr. Smith reviewed how he addressed some technical problems with the C-6 filing application and how they were resolved.

General Counsel

No additional items to report.

Adjournment

The meeting adjourned at 2:10 p.m.

Approved by the Commission on September 27, 2012.